



PATENT
Customer No. 22,852
Attorney Docket No. 7528.0002-15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
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Cyril J. SCHWEICH, Jr. et al.) Group Art Unit: 3762
)
Application No.: 10/073,968) Examiner: G. Evanisko
)
Filed: February 14, 2002)
)
For: HEART WALL TENSION) Confirmation No.: 8329
REDUCTION APPARATUS)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Assignee, Myocor, Inc., duly organized under the laws of Delaware and having its principal place of business at 13300 67th Avenue North, Maple Grove, MN 55311, represents that it is the assignee of the entire right, title and interest in and to the above-identified application, Application No. 10/073,968, filed February 14, 2002, for HEART WALL TENSION REDUCTION APPARATUS in the names of Cyril J. Schweich, Jr. and Todd J. Mortier as indicated by an Assignment duly recorded in the United States Patent and Trademark Office at Reel 8388, Frame 0776 on January 2, 1997. Assignee, Myocor, Inc., further represents that it is the assignee of the entire right, title and interest in and to U.S. Patent Nos. 6,162,168 and 6,050,936, as indicated by that same Assignment.

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To obviate a double patenting rejection, Assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent Nos. 6,162,168 and 6,050,936. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$65.00 for a small entity is being filed with this Disclaimer.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916. If a fee is required for an

extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to Deposit Account No. 06-0916.

The undersigned is an attorney of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 14, 2007

By: 

Leslie I. Bookoff
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